

REMARKS

I. Status of Claims

By this Amendment, Applicants have amended claims 1, 25, 27, 30–32, 41–44, and 49. Claims 1–50 are pending.

II. Summary of Final Office Action

In the Final Office Action of January 29, 2009 (as updated in the Examiner's Answer mailed January 22, 2010),¹ the Examiner

- (a) rejected claims 1–9, 11–13, 17, 18, 20–24, 27, 30–32, and 34–50 under 35 U.S.C. § 103(a) based on *Maloney* and U.S. Patent No. 5,796,932 ("*Fox*");
- (b) rejected claim 10 under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and U.S. Patent Application Publication No. 2002/0082869 ("*Anderson*");
- (c) rejected claims 14–16, 28, 29, and 33 under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and U.S. Patent Application Publication No. 2002/0059248 ("*Farchione*");
- (d) rejected claim 19 under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and Official Notice; and
- (e) rejected claims 25 and 26 under 35 U.S.C. § 102(a) based on WO 01/18674 ("*Maloney*").

III. Rejection Under 35 U.S.C. § 103(a): Claims 1–9, 11–13, 17, 18, 20–24, 27, 30–32, and 34–50

Applicants traverse the rejection of claims 1–9, 11–13, 17, 18, 20–24, 27, 30–32, and 34–50 under 35 U.S.C. § 103(a) based on *Maloney* and *Fox* at least because the

¹ Applicants note that the Final Office Action and Examiner's Answer contain numerous statements concerning the related art, claims, etc. Regardless of whether any such statement is addressed specifically herein, Applicants decline to automatically subscribe to any assertion or characterization in the Final Office Action or the Examiner's Answer.

cited references, separately or in combination, fail to teach or suggest each and every element recited in those claims.

Maloney fails to teach or suggest at least “prompting the subject to identify at least one cosmetic product that the subject possesses; generating . . . at least one recommendation for use of the at least one cosmetic product that the subject possesses based on at least the personal information and the local information; and presenting the at least one recommendation,” as recited in amended claim 1. Instead, *Maloney* discloses customizing products for a consumer based on the consumer’s profile data and offering the consumer the option of purchasing those products. *Maloney*, 10:6–17.

Fox fails to cure the deficiencies of *Maloney*. *Fox* merely discloses depicting the effect of weather variables on sales for a given product at a particular location for a particular time period. *Fox*, 16:36–39. This may involve collecting data impacted by weather, such as demographical data. *Id.* at 9:20–24.

Accordingly, for at least the above reasons, the rejection of claim 1 under 35 U.S.C. § 103(a) based on *Maloney* and *Fox* should be withdrawn, and the claim should be allowed. Also, claims 2–9, 11–13, 17, 18, and 20–24 should be allowed at least by virtue of their dependence upon allowable claim 1, in addition to the patentable subject matter recited therein. Further, although claims 27, 30–32, and 34–50 recite different limitations and have different scopes from claims 1–9, 11–13, 17, 18, and 20–24, those claims are allowable over *Maloney* and *Fox* at least for reasons similar to the ones discussed above for claims 1–9, 11–13, 17, 18, and 20–24.

IV. Rejection Under 35 U.S.C. § 103(a): Claim 10

Applicants traverse the rejection of claim 10 under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and *Anderson* at least because the cited references, separately or in combination, fail to teach or suggest each and every element recited in the claim.

Claim 10 depends upon claim 1 and includes all limitations recited in claim 1. As discussed above for claim 1, *Maloney* and *Fox* fail to teach or suggest at least "prompting the subject to identify at least one cosmetic product that the subject possesses; generating . . . at least one recommendation for use of the at least one cosmetic product that the subject possesses based on at least the personal information and the local information; and presenting the at least one recommendation," as recited in claim 1. *Anderson* fails to cure the deficiencies of *Maloney* and *Fox*. *Anderson* merely discloses a method for providing and updating customized health care information based on an individual's genome. *Anderson*, Abstract. The method might include obtaining the personal data of the individual. *Anderson* at 2, ¶ [0016].

Accordingly, for at least the above reasons, the rejection of claim 10 under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and *Anderson* should be withdrawn, and the claim should be allowed.

V. Rejection Under 35 U.S.C. § 103(a): Claims 14–16, 28, 29, and 33

Applicants traverse the rejection of claims 14–16, 28, 29, and 33 under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and *Farchione* at least because the cited references, separately or in combination, fail to teach or suggest each and every element recited in the claims.

Claims 14–16, 28, 29, and 33 depend upon one of claims 1, 27, and 32, and include all limitations recited in their base claims, respectively. As discussed above for claim 1, *Maloney* and *Fox* fail to teach or suggest, separately or in combination, at least “prompting the subject to identify at least one cosmetic product that the subject possesses; generating . . . at least one recommendation for use of the at least one cosmetic product that the subject possesses based on at least the personal information and the local information; and presenting the at least one recommendation,” as recited in the claim. For claim 27, *Maloney* and *Fox* fail to teach or suggest, separately or in combination, “memory for storing an identification of at least one cosmetic product that the subject possesses; [and] memory for storing a program that accesses local information for the geographic area and generates at least one recommendation for use of the at least one cosmetic product that the subject possesses, the at least one recommendation being a function of the personal information of the subject and the local information.” For claim 32, *Maloney* and *Fox* fail to teach or suggest, separately or in combination, “obtaining an identification of at least one cosmetic product that the subject possesses; generating, by the computer system, a plurality of differing cosmetic product usage recommendations, each recommendation being a function of the local information and at least one of the plurality of categories, wherein at least one of the recommendations includes a cosmetic product usage recommendation for the at least one cosmetic product that the subject possesses; and presenting the recommendations.” *Farchione* fails to cure these deficiencies of *Maloney* and *Fox*.

Farchione merely discloses a method for selecting fashion information for an individual. *Farchione*, Abstract. *Farchione*’s method is directed towards training sales

agents in product knowledge and application as well as providing an individual a personal analysis and review of the combinations of cosmetic colors and clothing colors that are most appropriate for the individual based on skin color, hair color, eye color, body shape and body proportion. *Id.* at 1, ¶ [0003].

Accordingly, for at least the above reasons, the rejection of claims 14–16, 28, 29, and 33 under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and *Farchione* should be withdrawn, and the claims should be allowed.

VI. Rejection Under 35 U.S.C. § 103(a): Claim 19

Applicants traverse the rejection of claim 19 under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and Official Notice at least because the cited references, separately or in combination, fail to teach or suggest each and every element recited in the claim.

Claim 19 depends upon claim 1 and includes all limitations recited in claim 1. As discussed above for claim 1, *Maloney* and *Fox* fail to teach or suggest at least “prompting the subject to identify at least one cosmetic product that the subject possesses; generating . . . at least one recommendation for use of the at least one cosmetic product that the subject possesses based on at least the personal information and the local information; and presenting the at least one recommendation,” as recited in claim 1. Examiner’s Official Notice does not cure these deficiencies of *Maloney* and *Fox*.

Accordingly, for at least the above reasons, the rejection of claim 19 under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and Official Notice should be withdrawn, and the claim should be allowed.

VII. Rejection Under 35 U.S.C. § 102(a): Claims 25 and 26

Applicants traverse the rejection of claims 25 and 26 under 35 U.S.C. § 102(a) based on *Maloney* because the cited reference fails to teach each and every element recited in the claims.

Maloney fails to teach at least “generating, by the computer system, at least one recommendation for use of at least one cosmetic product on [a] list, the at least one recommendation being a function of the personal information of the subject and the local information, wherein the list includes one or more cosmetic products that the subject possesses,” as recited in amended claim 25. Instead, *Maloney* discloses customizing products for a consumer based on the consumer’s profile data and offering the consumer the option of purchasing those products. *Maloney*, 10:6–17. Accordingly, for at least the above reasons, the rejection of claim 25 under 35 U.S.C. § 102(a) based on *Maloney* should be withdrawn, and the claim should be allowed.

The rejection of claim 26 under 35 U.S.C. § 102(a) based on *Maloney* should also be withdrawn at least by virtue of its dependence upon allowable claim 25, in addition to the patentable subject matter recited therein.

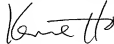
CONCLUSION

Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.



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By: _____

Kenie Ho
Reg. No. 51,808
(202) 408-4287